

## Water Right Processing Improvements: Proposed Legislation

### The problem

A substantial backlog exists for water right applications in Washington State. The current backlog exceeds 7,000. Due to a recent 25 percent budget reduction to water right processing, the Department of Ecology (Ecology) Water Resources Program has limited staff to review these applications. Competition for water is increasing in the face of additional growth, and the decision-making process has become more complex. An alternative means of processing applications will help Ecology reach approvable water right applications that are otherwise buried in the backlog. Without legislative changes, many of these job-creating potential water right approvals will remain unreachable.

### The solution

The proposed agency request legislation promotes more efficient and expeditious processing of water right applications. It would amend sections related to permit processing under both the surface water (RCW 90.03) and groundwater (RCW 90.44) codes. The proposed legislation would:

- Expand the existing cost-reimbursement program by providing a coordinated water right processing option.
- Authorize Ecology to train, test and certify private “water right examiners” who are contracted for cost-reimbursement and other water right investigations.
- Provide notice to applicants affected by “closures” where new water is not available for new consumptive uses, and require such applicants to propose mitigation in order to receive a permit.
- Provide administrative improvements to the water code that will support efficient processing of water rights.

### How it will work

**Cost-reimbursement:** The Legislature created the cost-reimbursement program in 2000 (RCW 43.21A.690 and RCW 90.03.265). The law enables an applicant to expedite decision-making on his or her application. Under the cost-reimbursement program, Ecology and the applicant can enter into a contract under which the applicant agrees to reimburse Ecology for all the processing costs

### WHY IT MATTERS

Water is an essential element for economic prosperity, and it generates new family-wage jobs and state revenues.

With a recent 25 percent budget reduction to the Water Resources Program’s permitting staff, staff available to review the existing backlog of water right applications is limited. An alternative means of processing applications can help Ecology move through the existing backlog and expedite water right processing.

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### Special accommodations:

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plus those for any senior (filed at an earlier date) applications for the same source of water. Since 2000, the cost-reimbursement program has been used to process roughly 10 percent of the total applications considered.

The proposed bill would expand the cost-reimbursement program by removing the requirement to pay for all previous applications for water budget neutral applications and applicants participating in a “coordinated” option. Under “coordinated” cost-reimbursement, applicants for a particular water source would be given the option to either (1) share payment for application processing, or (2) take no action but see applicants filed at a later date get processed ahead of their application.

**Water right examiners:** The bill would authorize Ecology to train, test and certify private water right examiners. These examiners would be permitted to carry out final inspections of water use leading to the issuance of a water right certificate. Because of inadequate staff, Ecology has had to give this work lower priority than reviewing permit and change applications and a backlog of this work has built up.

**In basins with limited water availability:** Because of inadequate stream flows, declining aquifers and past appropriations, many of Washington’s water sources no longer have water legally available for new unmitigated uses. In such areas, the agency’s permitting function has shifted away from processing new water rights and more toward the review and processing of mitigated water right transfers and applications that enable new uses of water without harm to the resource or existing water rights. Legislation is needed in order to recognize this shift and focus the permitting process accordingly.

In these basins, persons holding pending applications would be put on notice of the non-availability of new water and would be directed to propose acceptable mitigation plans in order to receive an approval of their applications. Those failing to do so within three years (extendable to five years on request and a showing of diligence) would in most cases be rejected by Ecology. However, exception could be made for applicants located in areas where a water development project is expected to increase supply in the near future.

### **How it will benefit Washington**

Water is an essential element for economic prosperity and it generates potential for new family-wage jobs and state revenues. The proposed legislation promotes more efficient and expeditious processing of water right applications. This will reduce the application backlog and help make water available for new uses.